

EXHIBIT 73

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

IN RE PACIFIC FERTILITY)
 CENTER LITIGATION,) Case No. 3:18-cv-01586-JSC
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VIDEOTAPED & VIDEOCONFERENCED DEPOSITION of
 PACIFIC MSO, LLC's 30(b)(6) designee
 JOSEPH CONAGHAN, Ph.D.
 November 13, 2020

CHERREE P. PETERSON, RPR, CRR, CSR No. 11108
 468470



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13 VIDEOTAPED & VIDEOCONFERENCED DEPOSITION of
14 PACIFIC MSO, LLC's 30(b)(6) designee JOSEPH CONAGHAN,
15 Ph.D., taken on behalf of Defendant Chart, Inc.,
16 remotely beginning at 2:15 p.m., Friday, November 13,
17 2020, before CHERREE P. PETERSON, RPR, CRR, Certified
18 Shorthand Reporter No. 11108.
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1 those lines the controller displays the level in inches
2 of liquid nitrogen in the tank. And that's a permanent
3 display on the TEC 3000 controller. It's always
4 present. It's always there. It's always lit up.

15:46 5 And on February 15th, 2018, in the afternoon
6 the controller went into an alarm condition. And when I
7 looked at it, it said on the display that the level of
8 liquid nitrogen in the tank was zero inches. And that
9 seemed very unlikely. And on checking the tank, the
15:46 10 tank had a normal level of liquid nitrogen inside. And
11 the controller was for some reason not capable of doing
12 its normal measurement of the level that was in there.

13 Q. BY MR. POLK: And do you believe that those
14 symptoms that you've just described made using the
15:46 15 controller dangerous?

16 A. Yes.

17 MR. DUFFY: Objection. Beyond the Rule
18 30(b)(6) notice. Move to strike. Foundation.
19 Speculation.

15:46 20 THE WITNESS: Yes. Those symptoms made the
21 controller unusable.

22 Q. BY MR. POLK: Did Chart ever warn you about the
23 problems with its controller?

24 MR. DUFFY: Objection. Beyond the scope of the
15:47 25 Rule 30(b)(6). Move to strike.

1 THE WITNESS: They did not.

2 Q. BY MR. POLK: Did you ever receive a recall
3 notice --

4 MR. DUFFY: Objection --

15:47 5 MR. POLK: I'll get my question out, and then
6 you get your objection out.

7 THE REPORTER: Yeah. Can you ask it again,
8 please.

9 Q. BY MR. POLK: Did Chart ever issue -- or did
15:47 10 you ever receive a recall notice from Chart concerning
11 the defective controller?

12 MR. DUFFY: Objection. Beyond the Rule
13 30(b)(6). Objection. Speculation. Objection.
14 Foundation.

15:47 15 THE WITNESS: I have never received a recall
16 letter from Chart on TEC 3000 controllers or tanks like
17 the kind we use here.

18 Q. BY MR. POLK: Had you received a warning or
19 recall notice concerning the defective controller, would
15:47 20 you have done anything differently?

21 MR. DUFFY: Objection. Beyond the scope of the
22 Rule 30(b)(6). Objection. Argumentative. Objection
23 calls for a legal conclusion. And objection. Calls for
24 speculation. Move to strike.

15:48 25 THE WITNESS: Yes. We would have had to deal

1 with the recall.

2 MR. POLK: I don't have anything further.

3 EXAMINATION BY MR. DUFFY

4 Q. Dr. Conaghan, I just want to follow up on one
15:48 5 aspect of the testimony that Mr. Polk asked you about
6 about LN2 usage in March. You indicated that you bought
7 backup freezers in March after the incident. Do you
8 recall that testimony?

9 A. Yes.

10 Q. How many did you purchase?
15:48

11 A. We purchased a large series 800 freezer to
12 replace the backup freezer that got consumed with Tank
13 4's contents. And then we purchased six small -- we
14 call them dewars. They're much smaller than the typical
15:49 15 tanks that we have, but we purchased those as additional
16 backup capacity.

17 Q. And when you purchased the backup tanks --
18 well, let me break that down. So it sounds like you got
19 another MVE 808; is that right?

15:49 20 A. Yes, we got another MVE 800 series freezer.

21 Q. And then you got six smaller dewars; correct?

22 A. That's correct.

23 Q. And were these just to be dedicated as backup
24 freezers?

15:49 25 A. Yes.

1 Q. Okay. So after purchasing them in March, were
2 they stored on the first floor of the building where
3 Pacific Fertility's lab is?

4 A. Yes, they were.

15:49 5 Q. And were they stored there the entire month of
6 March?

7 A. I can't testify to that because I don't
8 remember when the tanks arrived.

9 Q. Okay. But if they were backup freezers --
15:49 10 well, strike that. Let me -- let me ask the question
11 again.

12 The 800 series freezer and the six dewars were
13 left empty ready to be used as backups in March if
14 needed; correct?

15:50 15 A. The new 800 series dewar and the six backup
16 dewars were ready to be used as backup freezers, yes.

17 Q. But -- yeah, but they weren't filled with
18 liquid nitrogen on the first floor; right? You wouldn't
19 do that; right?

15:50 20 MR. TARANTINO: Objection. Vague.

21 THE WITNESS: So when they arrived, they were
22 filled with liquid nitrogen for validation.

23 Q. BY MR. DUFFY: Okay. And who did that?

24 A. I did some or all of it.

15:50 25 Q. Okay. And then after you validated them, did

1 DEPOSITION OFFICER'S CERTIFICATE

2 (Civ. Proc. § 2025.520(e))

3 STATE OF CALIFORNIA)
 4) ss
 COUNTY OF CONTRA COSTA)

5
 6 I, CHERREE P. PETERSON, hereby certify:

7 I am a duly qualified Certified Shorthand
 8 Reporter, in the State of California, holder of
 9 Certificate Number CSR 11108 issued by the Court
 10 Reporters Board of California and which is in full force
 11 and effect. (Fed. R. Civ. P. 28(a)).

12 I am authorized to administer oaths or
 13 affirmations pursuant to California Code of Civil
 14 Procedure, Section 2093(b) and prior to being examined,
 15 the witness was first duly sworn by me. (Fed. R. Civ.
 16 P. 28(a), 30(f)(1)).

17 I am not a relative or employee of any attorney
 18 or counsel of any of the parties, nor am I a relative or
 19 employee of such attorney or counsel, nor am I
 20 financially interested in this action. (Fed. R. Civ. P.
 21 28).

22 I am the deposition officer that
 23 stenographically recorded the testimony in the foregoing
 24 deposition and the foregoing transcript is a true record
 25 of the testimony given by the witness. (Fed. R. Civ. P.

1 30(f)(1)).

2 Before completion of the deposition, review of
3 the transcript (xx) was () was not requested. If
4 requested, any changes made by the deponent (and
5 provided to the reporter) during the period allowed, are
6 appended hereto. (Fed. R. Civ. P. 30(e)).

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8 Dated: November 16, 2020

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